

# **The Corporation of the City of Kawartha Lakes**

## **Committee of the Whole Report**

**Report Number RD2019-005**

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**Date:** September 10, 2019

**Time:** 1:00 p.m.

**Place:** Council Chambers

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**Ward Community Identifier:** All

**Title:** Winter Maintenance Fee for Service Review

**Description:** Council has requested the feasibility of offering a fee for service “where it makes sense” for specific roads identified by Council

**Author and Title:** David MacPherson – Manager, Roads Operations

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### **Recommendation(s):**

**That** Report RD2019-005, **RD2019-005 Winter Maintenance Fee for Service Review**, be received; and

**That** this recommendation be brought forward to Council for consideration at the next Regular Council Meeting.

**Department Head:**\_\_\_\_\_

**Financial/Legal/HR/Other:**\_\_\_\_\_

**Chief Administrative Officer:**\_\_\_\_\_

## **Background:**

Through 2015-2017 as part of the City's Core Service Review, services offered to private and unassumed roads were reviewed by Public Works staff in consultation with the Office of Strategy Management.

Staff continues to advise that maintenance on unassumed roads is not legally required and as a result most municipalities have chosen not to offer such services. Money expended on these non-obligatory commitments could be redirected to the City's assumed road network. Staff went through an extensive public consultation and reported to Council on several occasions. Residents on unassumed roads who benefit from the program were overwhelmingly in favour of the program and in many cases requested additional services.

As noted, there is no municipal legal obligation to provide any service to an unassumed road or private roads. Council has been provided the legal opinion in the past that states:

"The City is not legally obligated to provide maintenance on either category of road (private or unassumed) and not doing so limits both the maintenance costs and exposure to liability for the City." (Staples & Swain)

At the request of Council, Staff prepared report RD2019-002 on providing fee for service on unassumed roads. The background for that report summarized Council's direction on providing service on unassumed roads at no cost. At the Council Meeting of June 18 2019, Council adopted the following resolution based on report RD2019-002:

### **CR2019-412**

**Moved By** Councillor Yeo

**Seconded By** Councillor Richardson

That staff be directed to bring forward options for providing fee for service for winter maintenance of unassumed roads where there is continuation of service opportunities for expanding existing plow routes by end of Q3 2019.

Carried

This report addresses that resolution.

## **Rationale:**

Establishing a standard and adhering to that standard is essential to consistent and equitable service delivery. Council has taken steps to ensure this occurs by:

- 1) Establishing the Seasonal Level of Service Policy (SLOS) which outlines service it is willing to offer for unassumed roads. This includes summer season maintenance only.
- 2) Directing Staff to continue maintenance of private roads which previously received service under agreement. As part of that decision, Council resolved that no additional agreements for private roads are to be entered into.
- 3) Establishing a standard for road assumption and passing a policy for assuming roads that outlines minimum construction standards to enable effective service delivery with municipal equipment.

Resulting from the extensive review already completed and due to the legal opinion received from external Counsel, Staff does not recommend commencing fee for service work. Fee for service is an impact to municipal resources, takes work away from local businesses and is not part of our core service delivery requirements.

Currently the best alternative for unassumed roads to receive full municipal servicing is for the benefitting owners to work towards having the City assume the road. Assumption of existing, historical roads can be achieved in accordance with Council Policy CP2017-010 (Assumption of Private and Unassumed Roads Policy). At the request of the road associations Staff are willing to review the roads and outline what steps are needed to have the road assumed and receive full municipal service.

The Director of Public Works requested Councillors to submit roads to be considered in this review. At the time of writing this report the following roads have been identified for consideration by respective Councillors:

	Length	Status
McGuire's Beach Rd.	1.3 km	Unassumed
Thistle Trail	0.30 km	Unassumed
Elder Street	0.11 km	Unassumed /Private
Cobble Lane	0.335 km	Private

McGuire's Beach Road is an unassumed road and therefore subject to the SLOS Policy. There have been many meetings with the road association attended by roads managers, the director of public works and the Mayor. The association has been advised on multiple occasions that fee for service is not available to them and even provided a list of contractors capable of performing the work on their behalf. Staff has worked with them on several occasions to clarify the process to have the road assumed and recommends that the association follows that process. Reinstatement of fee for service is not recommended.

Thistle Trail is an extended driveway to a single residence along the road allowance. The road section does not meet the minimum design standards and does not have a suitable turn around for municipal equipment. As such the road is not suitable for municipal maintenance equipment and fee for service is not recommended.

Elder Street up to ~59 Elder Street is municipally maintained road. Running easterly from that point the road is single narrow unassumed road that services multiple homes. The laneway is not large enough for municipal equipment to service. Should the local residents wish to have municipal services, they should work toward improving the road and having it assumed. Fee for service is not recommended.

Cobble Lane is a single lane private road servicing multiple homes. The single lane is not suitable for passage of municipal maintenance equipment. In addition, Council has resolved Staff not to enter into any new service agreements (Limited Service Agreements) for service on private roads. Fee for service is not recommended.

### **Other Alternatives Considered:**

As confirmed within this report Staff does not recommend fee for service work however, Council has requested alternatives to commence winter control fee-for-service via CR2019-412. If Council wishes to consider offering winter control fee-for-service work, Staff recommends the road must meet the minimum standards as outlined in CP2017-001 and the following items should be included as part of an agreement for service:

#### **Private Roads**

- A legal agreement with the private land owner(s) would need to be executed allowing the city staff and equipment or a city contractor to enter on the private land and perform winter maintenance activities.
- In the agreement the land owner agrees to pay fees to the greater of actual costs or market rates (as deemed by the City) so as to ensure we are not taking work away from local businesses that could be performing the work.
- Services are to be provided to standards and frequency mandated by the provincial municipal maintenance standards (MMS) as deemed necessary by the City.
- The land owner or road association will be required to provide a deposit for this service. The amount of the deposit will be determined by the length of the road section.
- If payment for the previous year maintenance activities is not received by the City, the deposit will be used and the service will cease.

- The land owner will need to provide the required liability insurance coverage to protect the City from additional liability or risk, as determined by the City of Kawartha Lakes insurance provider.
- The road section must have snow storage capabilities
- The City will not be held liable for any damage caused, or resulting from, winter maintenance activities.

## **Unassumed Roads**

- Services are to be provided to standards and frequency mandated by the provincial municipal maintenance standards (MMS) as deemed necessary by the City.
- A legal agreement will be needed with all benefitting land owners or road association representing all benefitting land owners.
- In the agreement the land owner agrees to pay fees to the greater of actual costs or market rates (as deemed by the City) so as to ensure we are not taking work away from local businesses that could be performing the work.
- The benefitting land owners will be required to provide a deposit for this service. The amount of the deposit will be determined by the length of the road section.
- If payment for the previous year maintenance activities is not received by the City, the deposit will be used and the service will cease.
- The City will not be held liable for any damage caused, or resulting from, winter maintenance activities.

## **Financial/Operation Impacts:**

The recommendation of this report would have no financial or operational impacts to the City.

If Council chooses to offer fee for service work, an agreement with the benefitting land owners for winter control would be recommended. Pending volume of work, additional resources may be required to complete the work (administrative and/or operational). All costs would be allocated to the benefitting properties/association(s).

## **Relationship of Recommendation(s) To The 2016-2019 Strategic Plan:**

The recommendations contained in this report align with the Strategic Plan's Mission statement of "Providing responsible, efficient and effective services". It also aligns with the strategic enablers of "Responsible fiscal resource management" and "Efficient Infrastructure and asset management".

**Consultations:**

Public Works Manager Roads Operations West A  
Public Works Manager Roads Operations West B  
Director of Public Works

**Attachments:**

Appendix A – Council Policy CP2017-010



CP2017-010  
Assumption of Private

**Department Head E-Mail:**

**Department Head: Bryan Robinson, Director of Public Works**